



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2020–0002]

[T.D. TTB–174; Ref: Notice No. 187]

RIN: 1513–AC54

Establishment of the Verde Valley Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 200-square mile “Verde Valley” viticultural area (AVA) in Yavapai County, Arizona. The Verde Valley viticultural area is not located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to

describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Verde Valley AVA Petition

TTB received a petition from the Verde Valley Wine Consortium, on behalf of local grape growers and winemakers, proposing the establishment of the “Verde Valley” AVA in Yavapai County, Arizona. The proposed Verde Valley AVA covers approximately 200 square miles and is not located within any other AVA. There are 24 commercially-producing vineyards covering a total of approximately 125 acres within the proposed AVA, as well as 11 wineries. The petition states that an additional 40 acres of vineyards are planned for planting in the next few years. According to the petition, the distinguishing features of the proposed Verde Valley AVA are its climate, soils, and topography.

The petition states that the proposed Verde Valley AVA has an average annual rainfall amount that is significantly lower than in the surrounding regions. Due to the low rainfall, vineyard owners within the proposed AVA must use irrigation to ensure adequate hydration for their vines. Additionally, temperatures within the proposed Verde Valley AVA are warmer than in each of the surrounding regions and provide suitable heat and sunlight for photosynthesis. The petition also states that the difference between daytime high temperatures and nighttime low temperatures within the proposed AVA can exceed 30 degrees F, which is a greater difference than found in any of the surrounding regions. Such a significant drop in nighttime temperatures delays grape ripening, lessens the respiration of acids, and increases phenolic development in the grapes.

According to the petition, the proposed Verde Valley AVA is composed of alluvial soils while the surrounding areas consist of stony soils. The high bicarbonate levels in the groundwater of the proposed AVA increase pH within the soil in the proposed AVA, which inhibits nutrient uptake in the vines. However, the petition states that these unfavorable vineyard conditions can be

mitigated through rootstock, varietal, and clonal selection that can tolerate and even benefit from these nutrient deficiencies.

The petition also states that the proposed Verde Valley AVA consists of gentle slopes and elevations ranging between 3,000 feet and 5,000 feet. By contrast, the surrounding regions have steep slopes with elevations up to 8,000 feet. The lower elevation of the proposed AVA results in cold air drainage from the higher elevations of the surrounding areas and an increased risk of frost damage. Vineyard owners attempt to mitigate this risk by using inversion fans, protective sprays, and planting late-budding varietals of grapes.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 187 in the **Federal Register** on February 28, 2020 (85 FR 11894), proposing to establish the Verde Valley AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 187. In Notice No. 187, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on April 28, 2020.

Comments Received

In response to Notice No. 187, TTB received a total of eight comments. Commenters included local residents, wine consumers, and other members of the public. Of the eight comments received, six comments generally supported the establishment of the proposed AVA due to the unique quality and

characteristics of the wine produced in the area. Additionally, commenters were supportive of the potential of the AVA designation to provide economic benefits and raise consumer and industry awareness of the local area.

TTB received one comment that supported the establishment of the proposed AVA, but the commenter suggested conducting an environmental and cultural evaluation to assess the impact of the proposed AVA on the surrounding area and its inhabitants. TTB's authority does not encompass evaluating the cultural impact of a proposed AVA on the surrounding regions and its inhabitants.

Further, an environmental impact statement under the National Environmental Policy Act (NEPA) is generally not required for regulations of a strictly administrative nature such as this rule establishing the Verde Valley AVA, as such actions normally do not have a significant effect on the human environment.¹ In evaluating this final rule, TTB found no extraordinary circumstances that could lead to any reasonably foreseeable significant environmental effects with a reasonably close causal relationship to TTB's establishment of the Verde Valley AVA.² Potential changes to the local ecosystem such as those concerning the commenter would arise only in attenuated circumstances that are not reasonably foreseeable based on this rulemaking.

Another commenter did not oppose the establishment of the proposed AVA, but voiced concern that it would be difficult to grow grapes in an area prone to prolonged droughts. TTB recognizes the challenges posed by the unique characteristics of the proposed Verde Valley AVA. However, the petition

¹ See Treasury Directive 75-02, "Department of the Treasury National Environmental Policy Act (NEPA) Program" (May 6, 2015), Appendix I, "Categorical Exclusions," at CE#A3(a), *available at* <https://home.treasury.gov/about/general-information/orders-and-directives/td75-02> (site last visited on June 24, 2021).

² See 40 CFR 1508.1(g) (Council on Environmental Quality regulatory definition of *effects* or *impacts* under NEPA).

provided evidence that commercial winegrape production does take place within the proposed AVA, which satisfies TTB's requirement for evidence of grape-growing in a proposed AVA. Additionally, the petition states that vineyard owners compensate for the low rainfall amounts by using water-conserving irrigation methods.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 187, TTB finds that the evidence provided by the petitioner supports the establishment of the Verde Valley AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the "Verde Valley" AVA in Yavapai County, Arizona, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Verde Valley AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The Verde Valley AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions

listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Verde Valley AVA, its name, “Verde Valley,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name “Verde Valley” in a brand name, including a trademark, or in another label reference to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Verde Valley AVA will not affect any existing AVA. The establishment of the Verde Valley AVA will allow vintners to use “Verde Valley” as an appellation of origin for wines made primarily from grapes grown within the Verde Valley AVA if the wines meet the eligibility requirements for the appellation.

Bottlers who wish to label their wines with “Verde Valley” as an appellation of origin must obtain a new Certificate of Label Approval (COLA) for the label, even if the currently approved label already contains another appellation of origin. Please do not submit COLA requests to TTB before the date shown in the **Dates** section of this document, or your request will be rejected.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Selina M. Ferguson of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.280 to read as follows:

§ 9.280 Verde Valley AVA.

(a) *Name*. The name of the viticultural area described in this section is “Verde Valley”. For purposes of part 4 of this chapter, “Verde Valley” is a term of viticultural significance.

(b) *Approved maps*. The 9 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Verde Valley viticultural area are titled:

- (1) Camp Verde, Ariz., 1969;
- (2) Clarkdale, Ariz., 1973;
- (3) Cornville, Ariz., 1968;
- (4) Cottonwood, Ariz., 1973;
- (5) Lake Montezuma, Ariz., 1969;
- (6) Middle Verde, Ariz., 1969;
- (7) Munds Draw, Ariz., 1973;
- (8) Page Springs, Ariz., 1969; and
- (9) Sedona, Ariz., 1969.

(c) *Boundary*. The Verde Valley viticultural area is located in Yavapai County, Arizona. The boundary of the Verde Valley viticultural area is as described as follows:

(1) The beginning point of the boundary is at the intersection of the 3,800-foot elevation contour and the northern boundary of Section 32, T17N/R3E, on the Clarkdale Quadrangle. From the beginning point, proceed east along the northern boundary of Section 32 until its intersection with the Verde River; then

(2) Proceed north along the Verde River to its intersection with the western boundary of Section 21, T17N/R3E; then

(3) Proceed north along the western boundaries of Sections 21 and 16 to the intersection with the 3,800-foot elevation contour; then

(4) Proceed southerly then easterly along the 3,800-foot elevation contour, crossing onto the Page Springs Quadrangle, to its intersection with Bill Gray Road in Section 18, T16N/R4E; then

(5) Proceed north along Bill Gray Road to its intersection with an unnamed, unimproved road known locally as Forest 761B Road in Section 32, T17N/R4E; then

(6) Proceed east, then northeast, along Forest 761B Road to its intersection with Red Canyon Road in Section 26, T17N/R4E; then

(7) Proceed south along Red Canyon Road to its intersection with U.S. Highway 89 Alt. in Section 35, T17N/R4E; then

(8) Proceed east over U.S. Highway 89 Alt. in a straight line to and unnamed, unimproved road known locally as Angel Valley Road, and proceed southeasterly along Angel Valley Road as it becomes a light-duty road, crossing over Oak Creek, and continuing along the southernmost segment of Angel Valley Road to its terminus at a structure on Deer Pass Ranch in Section 12, T16N/R4E; then

(9) Proceed south in a straight line to the 3,800-foot elevation contour in Section 12, T16N/R4E; then

(10) Proceed south-southeasterly along the 3,800-foot elevation contour, crossing over the southwestern corner of the Sedona Quadrangle and onto the Lake Montezuma Quadrangle, to the intersection of the contour line with an unnamed creek in Section 6, T15N/R5E; then

(11) Proceed southwesterly along the unnamed creek until its intersection with the 3,600-foot elevation contour in Section 1, T15N/R4E; then

(12) Proceed southerly along the 3,600-foot elevation contour, crossing briefly onto the Cornville Quadrangle and then back onto the Lake Montezuma

Quadrangle, to the intersection of the elevation contour with an unnamed secondary highway known locally as Cornville Road in Section 7, T15N/R5E; then

(13) Proceed southeast along Cornville Road to its intersection with the 3,600-foot elevation contour in Section 20, T15N/R5 E; then

(14) Proceed easterly, then southerly, along the elevation contour to its intersection with the boundary of the Montezuma Castle National Monument in Section 36, T15N/R5E; then

(15) Proceed west, southeast, southwest, and then east along the boundary of the Montezuma Castle National Monument to its intersection with range line separating R5E and R6E; then

(16) Proceed south along the R5E/R6E range line, crossing onto the Camp Verde Quadrangle, to the intersection of the range line and the southeastern corner of Section 12, T14N/R5E; then

(17) Proceed west along the southern boundaries of Sections 12, 11, 10, and 9 to the intersection of the southern boundary of Section 9 and the Montezuma Castle National Monument; then

(18) Proceed along the boundary of the Montezuma Castle National Monument in a counterclockwise direction to the intersection of the monument boundary and the 3,300-foot elevation contour in Section 16, T14N/R5E; then

(19) Proceed southerly, then southeasterly, along the 3,300-foot elevation contour to its intersection with the eastern boundary of Section 18, T13N/R6E; then

(20) Proceed south along the eastern boundary of Section 18 to its intersection with the southern boundary of Section 18; then

(21) Proceed west along the southern boundaries of Sections 19, 13, 14, 15, 16, 17, and 18, T13N/R53, and Section 13, T13N/R4E, to the intersection with the 3,800-foot elevation contour in Section 13, T13N/R4E; then

(22) Proceed northwesterly along the 3,800-foot elevation contour, crossing over the Middle Verde and Cornville Quadrangles and onto the Cottonwood Quadrangle, to the intersection of the elevation contour with an unnamed creek in Del Monte Gulch in Section 5, T15N/R3E; then

(23) Proceed westerly along the unnamed creek to its intersection with the 5,000-foot elevation contour in Section 26, T16N/R2E; then

(24) Proceed northerly along the 5,000-foot elevation contour, crossing over the Clarkdale Quadrangle and onto the Munds Draw Quadrangle, to the intersection of the elevation contour with a pipeline in Section 4, T16N/R2E; then

(25) Proceed southeasterly along the pipeline, crossing onto the Clarkdale Quadrangle, and continuing northeasterly along the pipeline to its intersection with the 3,800-foot elevation contour in Section 32, T17N/R3E; then

(26) Proceed northerly along the 3,800-foot contour, returning to the beginning point.

Signed: August 24, 2021.

Mary G. Ryan,

Administrator.

Approved: September 24, 2021.

Timothy E. Skud,

*Deputy Assistant Secretary,
Tax, Trade, and Tariff Policy.*